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6 **IN THE UNITED STATES DISTRICT COURT**
7 **FOR THE DISTRICT OF ARIZONA**
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9 William Enriquez,

10 Plaintiff,

11 v.

12 Gemini Motor Transport LP,

13 Defendant.
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No. CV-19-04759-PHX-GMS

ORDER

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16 Pending before the Court are William Enriquez’s (“Plaintiff”) Request for Leave to
17 File a Second Motion for Summary Adjudication Solely as to Defendant’s New
18 Affirmative Defense (Doc. 113) and Renewed Request to Continue Discovery Cutoff Date
19 (Doc. 114.) For the reasons below, both Motions are denied.

20 **BACKGROUND**

21 In a prior order, the Court found that Plaintiff had failed to disclose his prior criminal
22 history in violation of the Mandatory Initial Discovery Pilot (“MIDP”). (Doc. 98.) In light
23 of this new information, the Court permitted Defendant to file an amended Answer adding
24 an after-acquired evidence defense. (Doc. 98.) Nearly a month later, the Court decided
25 the parties’ cross-motions for summary judgment, denying Defendant’s Motion as to the
26 new defense. (Doc. 102.) However, because Defendant had so recently amended its
27 Answer—after it had filed its Motion for Summary Judgment—the Court specifically held
28 that “Defendant will be allowed to put on any disclosed witness to testify as to Defendant’s

1 party seeking to amend] was not diligent, the inquiry should end.” *Id.* Though both parties
 2 agree that discovery should be extended, neither has proven that they were diligent in
 3 pursuing discovery within the 120-day period. The Court recognizes that one of
 4 Defendant’s representatives and one of the defense counsel have experienced health-
 5 related issues. (Docs. 114, 117.) But the parties do not explain how this has affected
 6 discovery: Plaintiff merely cites an outstanding discovery dispute, and Defendant offers a
 7 generalized desire to “take any necessary deposition” so that “discovery can be wrapped
 8 up.” (Doc. 117 at 2.) This is not diligence. To the extent the parties cannot come to an
 9 agreement regarding any outstanding discovery, the Court will consider the dispute
 10 pursuant to the process outlined in the Case Management Order. (Doc. 21 at 3–4.)

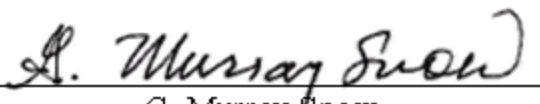
11 CONCLUSION

12 Accordingly,

13 **IT IS HEREBY ORDERED** that Plaintiff’s Request for Leave to File a Second
 14 Motion for Summary Adjudication Solely as to Defendant’s New Affirmative Defense
 15 (Doc. 113) is **DENIED**.

16 **IT IS FURTHER ORDERED** that Plaintiff’s Renewed Request to Continue
 17 Discovery Cutoff Date (Doc. 114) is **DENIED**.

18 Dated this 28th day of June, 2022.

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 21 G. Murray Snow
 22 Chief United States District Judge
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